

The Meeting of the Nibley City Council held at Nibley City Hall, 455 W. 3200 S. Nibley, Utah, on Thursday, October 3, 2013.

The following actions were made during the meeting:

Councilmember Jacobsen motioned to approve Ordinance 13-03—An Ordinance Regarding Nuisance Enforcement of Weeds in Nibley City as presented.

Councilmember Hansen seconded the motion.

Councilmember Whittaker made a motion to amend to add a notation in section 4-2-1: Definition: of Ordinance 13-03; “Utah Noxious Weed Act (Rule R68-9-2)” and to edit the wording under section 4-2-3: Penalty; to read “1) If the owner or person in possession of the property fails to take action to control or prevent the spread of weeds within (15) calendar days after the property is declared in violation of 4-2-2; the City may, after reasonable notification, enter the property without the consent of the owner of the person in possession and perform any work necessary, consistent with sound weed prevention and control practices, to control the weeds.” And “2) Any expense incurred by the City Council in controlling the weeds will be paid by the property owner of record or the person in possession of the property, as the case may be, within (90) days after receipt of the charges incurred by the city. If not paid within 90 days after notice of the charges, the charges become a lien against the property and are collectible by the city.” Councilmember Hansen seconded the amendment. The amendment passed 4-1; with Councilmember Whittaker, Councilmember Hansen, Councilmember Jacobsen, and Councilmember Cook in favor. Councilmember Mickelson was opposed.

Councilmember Jacobsen made a motion to made a motion to amend the wording of Ordinance 13-03 to read “1) If the owner or person in possession of the property fails to take action to control or prevent the spread of weeds that constitute a nuisance within (15) calendar days after the property is declared in violation of 4-2-2; the City may, after reasonable notification, enter the property without the consent of the owner of the person in possession and perform any work necessary, consistent with sound weed prevention and control practices, to control the weeds that constitute a nuisance.” And “2) Any expense incurred by the City Council in controlling the weeds that constitute a nuisance will be paid by the property owner of record or the person in possession of the property, as the case may be, within (90) days after receipt of the charges incurred by the city. If not paid within 90 days after notice of the charges, the charges become a lien against the property and are collectible by the city.” Councilmember Whittaker seconded the amendment. The amendment passed unanimously 5-0; with Councilmember Jacobsen, Councilmember Whittaker, Councilmember Mickelson, Councilmember Cook, and Councilmember Hansen all in favor.

Councilmember Jacobsen made a motion to amend to add the wording to section B-1 to read “this shall not apply to those tracts engaged in agricultural

production”. Councilmember Whittaker seconded the motion. The amendment passed unanimously 5-0; with Councilmember Jacobsen, Councilmember Whittaker, Councilmember Mickelson, Councilmember Hansen, and Councilmember Cook all in favor.

The amended motion passed 4-1; with Councilmember Jacobsen, Councilmember Hansen, Councilmember Whittaker, and Councilmember Cook in favor. Councilmember Mickelson was opposed.

Councilmember Mickelson motioned to accept the first reading of Resolution 13-10—A Resolution Amending the Nibley City 2013-14 Budget; and to move it to the second reading. Councilmember Jacobsen seconded the motion. The motion passed unanimously 5-0; with Councilmember Mickelson, Councilmember Jacobsen, Councilmember Whittaker, Councilmember Cook, and Councilmember Hansen all in favor.

OFFICIAL MINUTES OF THE MEETING

Minutes were taken by Assistant City Recorder Cheryl Bodily

Mayor Gerald Knight called the Thursday, October 3, 2013 Nibley City Council meeting to order at 6:34 p.m. Those in attendance included Mayor Gerald Knight, Councilmember Carrie Cook, Councilmember Amber Whitaker, Councilmember Thayne Mickelson, Councilmember Larry Jacobsen, and Councilmember Bryan Hansen. Mr. David Zook, the City Manager, the City Planner, and Bill Saunders, the Public Works Director, were also in attendance.

Approval of agenda; and approval of the 09-19-2013 regular meeting minutes and 09-19-13 executive session meeting minutes

Councilmember Jacobsen made a motion to approve both sets of meeting minutes from September 19, 2013 and the evening’s agenda. Councilmember Whittaker seconded the motion. The motion passed 5-0; with Councilmember Jacobsen, Councilmember Whittaker, Councilmember Mickelson, Councilmember Cook, and Councilmember Hansen all in favor.

Discussion and consideration of Ordinance 13-03—An Ordinance Regarding Nuisance Enforcement of Weeds in Nibley City. (Second Reading)

Mayor Knight read Ordinance 13-03 to the City Council and public present.

Councilmember Jacobsen made a motion to approve Ordinance 13-03—An Ordinance Regarding Nuisance Enforcement of Weeds in Nibley City as presented. Councilmember Hansen seconded the motion.

Councilmember Whittaker read from Utah Code Title 4-17-8; Noxious weeds and referred to discussion held about going on to private property. She said this addressed their concern of going on to personal property. This code states “Noxious weeds—Failure

to control after notice and nuisance—Notice and hearing—Control at county expense—Owner liable for county costs—Charges lien against property. (1) If the owner or person in possession of the property fails to take action to control or prevent the spread of noxious weeds within five working days after the property is declared a public nuisance, the county may, after reasonable notification, enter the property, without consent of the owner of the person in possession, and perform any work necessary, consistent with sound weed prevention and control practices, to control the weeds. (2) Any expense incurred by the county in controlling the noxious weeds is paid by the property owner of record or the person in possession of the property, as the case may be, within 90 days after receipt of the charges incurred by the county. If not paid within 90 days after notice of the charges, the charges become a lien against the property and are collectible by the county treasurer at the time general property taxes are collected.” She thought the Utah code alone told them that they wouldn’t have issues with going on to personal property. She thought they should make the penalty in the Nibley ordinance consistent with Utah code so there wouldn’t be issues with litigation. She noted they were giving Nibley citizens three times the length of time to take action.

The City Council, Mayor, Mr. Zook, and City Planner debated the definition of noxious weeds, hazardous weeds, and what constituted a noxious weed.

Councilmember Whittaker made a motion to amend to add a notation in section 4-2-1: Definition: of Ordinance 13-03; “Utah Noxious Weed Act (Rule R68-9-2)” and to edit the wording under section 4-2-3: Penalty; to read “(1) If the owner or person in possession of the property fails to take action to control or prevent the spread of weeds within (15) calendar days after the property is declared in violation of 4-2-2; the City may, after reasonable notification, enter the property without the consent of the owner of the person in possession and perform any work necessary, consistent with sound weed prevention and control practices, to control the weeds.” And “(2) Any expense incurred by the City Council in controlling the weeds will be paid by the property owner of record or the person in possession of the property, as the case may be, within (90) days after receipt of the charges incurred by the city. If not paid within 90 days after notice of the charges, the charges become a lien against the property and are collectible by the city.” Councilmember Hansen seconded the amendment.

Both the City Planner and Mr. Zook agreed with the new wording and believed it would still accomplish what the Ordinance needed to and would justify the regulation if the ordinance was challenged.

The amendment passed 4-1; with Councilmember Whittaker, Councilmember Hansen, Councilmember Jacobsen, and Councilmember Cook in favor. Councilmember Mickelson was opposed.

Councilmember Jacobsen thanked city staff for the summary opinion from the city attorney on the ordinance and suggested they file that summary right along with the ordinance. Councilmember Whittaker recommended the city develop a standard operating procedure as it applied to weed control. She recommended they use city meter

readers to make the city aware of nuisance situations. Mayor Knight read the city's procedure in handling properties with weed nuisance issues. Mayor Knight said the city's policy needed to be updated and kept on file for reference.

Councilmember Jacobsen made a motion to made a motion to amend the wording of Ordinance 13-03 to read "1) If the owner or person in possession of the property fails to take action to control or prevent the spread of weeds that **constitute a nuisance** within (15) calendar days after the property is declared in violation of 4-2-2; the City may, after reasonable notification, enter the property without the consent of the owner of the person in possession and perform any work necessary, consistent with sound weed prevention and control practices, to control the weeds **that constitute a nuisance.**" And "2) Any expense incurred by the City Council in controlling the weeds **that constitute a nuisance** will be paid by the property owner of record or the person in possession of the property, as the case may be, within (90) days after receipt of the charges incurred by the city. If not paid within 90 days after notice of the charges, the charges become a lien against the property and are collectible by the city." Councilmember Whittaker seconded the amendment. The amendment passed unanimously 5-0; with Councilmember Jacobsen, Councilmember Whittaker, Councilmember Mickelson, Councilmember Cook, and Councilmember Hansen all in favor.

Councilmember Cook and the City Planner discussed subdivisions that were being phased. Councilmember Cook suggested Nibley City inventory the land that they had. Councilmember Hansen addressed weeds surrounding canals. Mayor Knight believed it was the adjacent property owners' responsibility to control weeds around the canal. Councilmember Jacobsen read from B.1 of the ordinance; "this shall not apply to those tracts engaged in growing of agricultural crops" and said he believed that canals were tracts of land engaged in agricultural production and were exempt. He said canals were habitats for wildlife and insects. Councilmember Whittaker suggested wording to A-B-1: "engaged in the growing of crops for agricultural production."

Councilmember Jacobsen made a motion to amend to add the wording to section B-1 to read "this shall not apply to those tracts engaged in agricultural production". Councilmember Whittaker seconded the motion. The amendment passed unanimously 5-0; with Councilmember Jacobsen, Councilmember Whittaker, Councilmember Mickelson, Councilmember Hansen, and Councilmember Cook all in favor.

Councilmember Mickelson said he thought this was the less effective approach of dealing with this issue and thought a proactive approach would be better. He was against the ordinance but understood its need.

The amended motion passed 4-1; with Councilmember Jacobsen, Councilmember Hansen, Councilmember Whittaker, and Councilmember Cook in favor. Councilmember Mickelson was opposed.

Council & Staff Reports

Councilmember Hansen said he had submitted a sample Historic Preservation Ordinance to the City Planner. He asked the City Planner to look at the ordinance and draft a similar ordinance for Nibley City. He asked that the ordinance be put on the agenda. He said by doing this they would become a certified local government and will be eligible for CLG grants with the intent of looking for funding to restore the barn at Morgan Farm or for landmark designation.

Councilmember Hansen proposed that Nibley City become a bee city. He thought they should try to find a way to encourage bee keeping in Nibley. Councilmember Whittaker suggested two contacts from Utah State University to Councilmember Hansen.

Councilmember Hansen reported on the service project that occurred the previous Saturday. He said 200 young adults aged 18-22 showed up. He summarized the projects they had completed. Councilmember Mickelson also reported on their service. He said they did an awesome job and were very engaged.

Councilmember Hansen said was continuing to research Charles W. Nibley and felt Nibley should draw more attention to him.

Councilmember Jacobsen asked the City Council to consider an agenda item; the restoration of the restoration project along the river. He suggested the County Planner, Josh Runhar, come in and speak to the City Council. Mr. Zook updated the City Council of items that were already being planned for restoration. Mayor Knight said he would put it on the agenda. Councilmember Hansen said it would be interesting to talk about and he would like to know what they were currently doing. Mr. Saunders said they were planning to walk the entire length of river in Nibley City, visit each site, and prepare a plan for pole planting and re-vegetation.

Councilmember Jacobsen said he could not reconcile Nibley City owning a bridge and he said he wanted more information on owning a bridge.

Discussion and consideration of Resolution 13-10—A Resolution Amending the Nibley City 2013-14 Budget—Mid-year Budget Review (First Reading)

The City Council was given a summary pertaining to Nibley City public works equipment. Mr. Saunders described the City's inventory of back hoes. He said this year they had seen major expenses in maintenance in their back hoes. He said the city had rented a mini-excavator and thought it would be a good idea for the city to purchase an excavator. The funding for renting the mini-excavator could go toward the purchase price of buying the mini-excavator. He said the city needed to have at least 3 back hoes to serve the city. Mr. Saunders discussed the pros and cons of leasing (\$79,600) versus buying and then reselling (\$81,500+) those back hoes. He estimated the value of their current back hoes at \$74-87,000 and said public works would need to ask for money from the capital budget to purchase the three back hoes. He described the yearly maintenance costs of a back hoe. Mr. Saunders summarized the maintenance costs that had incurred with Nibley's current back hoes. The Council and Mr. Saunders discussed needing 3 versus 2 back hoes.

Councilmember Mickelson made a motion to accept the first reading of Resolution 13-10—A Resolution Amending the Nibley City 2013-14 Budget; and to move it to the second reading. Councilmember Jacobsen seconded the motion. The motion passed unanimously 5-0; with Councilmember Mickelson, Councilmember Jacobsen, Councilmember Whittaker, Councilmember Cook, and Councilmember Hansen all in favor.

Council and Staff Reports (continued)

Mr. Zook said he met with the Community Impact Board (CIB) and had gotten final approval for a \$62,500 grant that would be used to complete the sewer and stormwater master plan. He said last Friday was the deadline for receiving proposals to complete those master plans. He said they had received three proposals.

Adjourn into Executive Session

Councilmember Cook made a motion to adjourn to executive session to discuss the Purchase of Real Property Pursuant to Utah Code 52-4-205. Councilmember Hansen seconded the motion. The motion passed unanimously 5-0; with Councilmember Cook, Councilmember Hansen, Councilmember Mickelson, Councilmember Whittaker, and Councilmember Jacobsen all in favor.

The meeting adjourned to executive session at 7:57.

Return from Executive Session & Adjourn Meeting

The meeting returned from executive session at 8:29.

Councilmember Cook discussed items that interested her when she attended the Logan City's Planning & Zoning Commission meeting.

Councilmember Whittaker had a suggestions for the city owned property next to Gibbon's Heritage Park. She suggested a Veteran's Memorial Park with overflow parking.

The meeting was adjourned at 8:33 p.m.